

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SOUTHWEST METALS,
INC., *et al.*,

Plaintiffs,

v.

CITY OF DETROIT, *et al.* ,

Defendants.

Case No. 2:15-cv-11080
District Judge Marianne O. Battani
Magistrate Judge Anthony P. Patti

**ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS’
MOTION FOR PROTECTIVE ORDER AND TO COMPEL DEPOSITION
OF JOSEPH FAWAZ (DE 38)**

Defendants filed the instant motion on August 8, 2016, asking the Court to stay the deposition of Sergeant Rebecca McKay until a substantially related criminal proceeding can be concluded. (DE 38.) Defendants further seek to compel the deposition of Plaintiff, Joseph Fawaz, irrespective of the timing of Sergeant McKay’s deposition. Finally, Defendants seek reasonable costs and attorney fees associated with the filing of the motion.

Plaintiffs oppose the motion, asserting that they should be entitled to delay Mr. Fawaz’s deposition until after the deposition of Sergeant McKay. This matter was referred to me on August 24, 2016 and came before me for a hearing on August 25, 2016. (DE 45.)

For the reasons stated on the record, Defendants' motion is **GRANTED IN PART AND DENIED IN PART**. (DE 38.) Specifically, the depositions of both Sergeant McKay and Mr. Fawaz shall be delayed until the parallel state-court criminal proceeding has concluded to a verdict or a plea. The Court declines to award fees or costs in this matter pursuant to Federal Rule of Civil Procedure 37(a)(5)(C), concluding that the legal issues raised in the motion and response were substantially justified.

IT IS SO ORDERED.

Dated: August 26, 2016

s/Anthony P. Patti
Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE